

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Antion Deion Shelby,

Petitioner,

v.

Case No. 18-cv-3356 (JNE/BRT)
ORDER

State of Minnesota,

Respondent.

In a Report and Recommendation (“R&R”) dated December 19, 2019, the Honorable Becky Thorson, United States Magistrate Judge, recommended that the Court deny Petitioner’s Motion to Stay, deny his habeas petition, and dismiss this action with prejudice without issuing a certificate of appealability. ECF No. 22. Petitioner objects to the R&R on two grounds. ECF No. 25.

Petitioner first objects to the R&R’s determination that his *Wheeler* claim is meritless. *See Wheeler v. State*, 909 N.W.2d 558, 564–65 (Minn. 2018) (“[A] district judge should not participate in the plea bargaining negotiation itself . . . [a] district judge’s function is limited to approving or rejecting a plea submitted for judicial acceptance.” (internal quotations and citations omitted)). Petitioner asserts the district judge granting a continuance to allow Petitioner time to bolster his departure position is evidence of the judge’s improper involvement in Petitioner’s plea negotiations. The Court disagrees. Unlike *Wheeler*, where the district judge gave the parties unsolicited feedback regarding the substance of the parties’ proposed plea agreement, the district judge granting a continuance gives no indication to the parties about her sentencing position on any proposed plea agreement. *See id.* at 566.

Petitioner also objects to the R&R's conclusion that his guilty plea was knowing and voluntary. Plaintiff asserts he explicitly expressed that he did not wish to accept the guilty plea because he was already on probation for domestic assault when he committed the newly charged criminal conduct. This objection is baseless. As the R&R explained, Petitioner was questioned in detail to ensure that he understood he was entering into a guilty plea and that the district judge may impose a prison sentence instead of a probationary sentence. *See* R&R at 14–17.

Therefore, IT IS ORDERED that:

1. Petitioner's Motion for Leave & Motion to Stay Petition for Writ of Habeas to Exhaust State Legal Issue(s), ECF No. 15, is DENIED;
2. Petitioner's Petition for a Writ of Habeas Corpus, ECF No. 1, is DENIED;
3. No certificate of appealability will be issued; and
4. This action is DISMISSED WITH PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: March 24, 2020

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge